

06/05/2001 11:00:55 AM

Page 1

**2001 DRAFTING REQUEST****Senate Amendment (SA-SB55)**

Received: 06/04/2001

Received By: traderc

Wanted: Soon

Identical to LRB:

For: Legislative Fiscal Bureau

By/Representing: Bonderud

This file may be shown to any legislator: NO

Drafter: traderc

May Contact:

Addl. Drafters:

Subject: Environment - solid haz. waste

Extra Copies:

Submit via email: NO

Requester's email:

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**Pre Topic:**

LFB:.....Bonderud -

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**Topic:**

Landfill negotiation and arbitration process

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**Instructions:**

See Attached

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	traderc 06/05/2001	wjackson 06/05/2001		_____			
/1			jfrantze 06/05/2001	_____	lrb_docadmin 06/05/2001		

FE Sent For:

<END>

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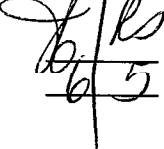
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1?	traderc	1 WJ 6/5					

FE Sent For:

&lt;END&gt;

**Tradewell, Becky**

**From:** Bonderud, Kendra  
**Sent:** Monday, June 04, 2001 3:18 PM  
**To:** Tradewell, Becky  
**Subject:** JFC recycling amendment

This morning, JFC took several votes related to recycling, most of which failed 8-8. Thus, there are a few DNR provisions that need to be taken back to current law. Please draft the following as JFC budget amendments. The JFC action leaves the recycling fund in a \$19.8 million deficit at the end of 2002-03.

Paper #697, Alternative A2b information for municipal and county grant applicants, return to current law. This should be removal of most or all of LRB 290/2.

Paper #697, Alternative C3, delete regional grant which was created in LRB 1810/5.

\* Motion 1284 related to landfill negotiation and arbitration process. I will fax the motion to you.

Also, for your information, Senator Decker introduced a major recycling motion #1075 that failed 8-8. I expect his motion will resurface in some form in the Senate. I will fax it to you as background.

Thank you.

Kendra Bonderud  
Legislative Fiscal Bureau  
(608) 266-3847  
[Kendra.Bonderud@legis.state.wi.us](mailto:Kendra.Bonderud@legis.state.wi.us)

JFL No. 1976 P. 2/9  
617101  
Adopted 16-0

Representative Duff  
Representative Ward

## NATURAL RESOURCES -- AIR, WASTE AND CONTAMINATED LAND

### Solid and Hazardous Waste Facility Siting Negotiation and Arbitration Process

#### Motion:

Move to add to the list of items that are subject to arbitration under the solid and hazardous waste facility siting negotiation and arbitration process, compensation to any person for substantial economic impacts that are a direct result of the facility's receipt of waste generated outside of Wisconsin.

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#### Note:

The statutes, under s. 289.33, provide a process for negotiation and arbitration between the applicant for a license to establish either a solid waste disposal facility or a hazardous waste treatment, storage or disposal facility and a committee representing the affected municipalities to assure that: (a) arbitrary or discriminatory policies and actions of local governments which obstruct the establishment of solid waste disposal facilities and hazardous waste facilities can be set aside; (b) the legitimate concerns of nearby residents and affected municipalities can be expressed in a public forum, negotiated and, if need be, arbitrated with the applicant in a fair manner and reduced to a written document that is legally binding; and (c) an adequate mechanism exists under state law to assure the establishment of environmentally sound and economically viable solid waste disposal facilities and hazardous waste facilities.

Currently, the applicant and the local committee may negotiate with respect to any subject except: (a) any proposal to make the applicant's responsibilities under the approved feasibility report or plan of operation less stringent; and (b) the need for the facility.

If agreement is not reached after a reasonable period of negotiation, the applicant and the local committee may submit a joint written petition to the Waste Facility Siting Board to initiate

arbitration. After following specified procedures, the Board may issue an arbitration award which is final.

Currently, only the following items are subject to arbitration under this section:

(a) Compensation to any person for substantial economic impacts which are a direct result of the facility including insurance and damages not covered by the waste management fund;

(b) Reimbursement of reasonable costs, but not to exceed \$20,000, incurred by the local committee relating to negotiation, mediation and arbitration activities under this section;

(c) Screening and fencing related to the appearance of the facility. This item may not affect the design capacity of the facility.

(d) Operational concerns including, but not limited to, noise, dust, debris, odors and hours of operation but excluding design capacity;

(e) Traffic flows and patterns resulting from the facility;

(f) Uses of the site where the facility is located after closing the facility;

(g) Economically feasible methods to recycle or reduce the quantities of waste to the facility. At facilities for which the applicant will not provide or contract for collection and transportation services, this item is limited to methods provided at the facility;

(h) The applicability or nonapplicability of any preexisting local approvals.

The motion would add to the list of items subject to arbitration, compensation to any person for substantial economic impacts that are a direct result of the facility's receipt of waste generated outside of Wisconsin.

2001

Date (time)  
needed

50 a)

LRB b 0581 1 1

**LFB BUDGET AMENDMENT  
[ONLY FOR LFB]**

Rt : WJ :

See form AMENDMENTS — COMPONENTS & ITEMS.

**LFB AMENDMENT  
TO 2001 ASSEMBLY BILL 144 AND 2001 SENATE BILL 55**

>>FOR JT. FIN. SUB. — NOT FOR INTRODUCTION<<

Onote

At the locations indicated, amend the bill as follows:

#. Page 1462, line 17.: after that line insert:

<sup>(CS + B)</sup>  
"Section 322<sup>(B)</sup> +. cr; 289.33(8)(b)8.

289.33(8)(b)8. Compensation to any person for

#. Page ~~1462~~, line ~~17~~ substantial economic impacts that are  
a direct result of the facility's receipt of waste  
generated outside of this state."o

#. Page . . . . , line . . . . :

(End)

#. Page . . . . , line . . . . :

#. Page . . . . , line . . . . :

#. Page . . . . , line . . . . :

b0581/ldn

RET: WLj:

Note

If this proposal may be challenged as violating the  
of the ~~100~~ Constitution.  
Commerce Clause @ Successful Commerce Clause challenges  
earlier  
have been made to ~~the~~ attempts to regulate the  
flow of solid waste from ~~other~~ <sup>other</sup> states. This proposal  
does take a quite different approach to the issue  
than  
than the provisions that were struck down. However, it  
is limited by its terms to waste from outside of  
the state. I have not done any research on this  
issue, so I cannot venture an opinion about  
the likelihood of success of a Commerce Clause  
challenge @

RET



**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRBb0581/1dn  
RCT:wlj:jf

June 5, 2001

This proposal may be challenged as violating the Commerce Clause of the U.S. Constitution. Successful Commerce Clause challenges have been made to earlier attempts to regulate the flow of solid waste from other states. This proposal does take a quite different approach to the issue than the provisions that were struck down. However, it is limited by its terms to waste from outside of the state. I have not done any research on this issue, so I cannot venture an opinion about the likelihood of success of a Commerce Clause challenge.

Rebecca C. Tradewell  
Managing Attorney  
Phone: (608) 266-7290  
E-mail: becky.tradewell@legis.state.wi.us

LFB:.....Bonderud – Landfill negotiation and arbitration process

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

## LFB AMENDMENT

**TO 2001 SENATE BILL 55 AND 2001 ASSEMBLY BILL 144**

1 At the locations indicated, amend the bill as follows:

2           **1.** Page 1462, line 17: after that line insert:

3           **“SECTION 3227t.** 289.33 (8) (b) 8. of the statutes is created to read:

289.33 (8) (b) 8. Compensation to any person for substantial economic impacts  
that are a direct result of the facility's receipt of waste generated outside of this  
state.".

7 (END)